

HUMAN SERVICES BOARD

In re) Fair Hearing No. 20,498
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Appeal of)

The petitioner appeals the decision by the Department for Children and Families, Economic Services Division, changing the manner in which she receives Food Stamps from an EBT card to direct cash deposits into her bank account. The issue is whether the petitioner is disabled to the point that she cannot meaningfully participate in the Food Stamp program if the amounts of her Food Stamps are directly deposited into her bank account each month.

In April 1998 the Department implemented changes in several of its programs, including Food Stamps, eliminating checks and coupons and replacing them with a system of direct deposits into recipients' bank accounts and the issuance of EBT (electronic benefit transfer) cards. The rules, at W.A.M. § 2102, include the following:

Direct deposit to bank account other than the state EBT account is the required payment method for food stamps benefits to cash-out households when one of the following members of the food stamp cash-out household

has a bank account: the head of household or his or her spouse. Direct deposit to another adult may be the payment method when requested by the head of household.

In this case, there is no dispute that the petitioner is or is the spouse of the head of her Food Stamp household.

There is also no dispute that she maintains a bank account in her own name over which she has full and unfettered access and control. The Department concedes that, despite the above, the petitioner for many years has received her Food Stamps in the form of monthly deposits to an EBT card that the petitioner uses when she shops for food.

In September 2006 the Department discovered that it was erroneously continuing to pay the petitioner through an EBT card, and it notified her that they were switching the payment of her Food Stamps to monthly direct deposits into her bank account. The petitioner filed a timely appeal of this decision.

The petitioner maintains that the Department must keep her on an EBT card as an "accommodation" to her disability under the Americans with Disabilities Act (ADA) and Department policy that mandates adherence to that Act. (See 28 C.F.R. § 35.130(g) and W.A.M. § 2170.) Specifically, the petitioner alleges that she is impaired in her ability to manage her finances, and cannot competently allocate her

household spending if her Food Stamp payments are essentially commingled with her other income that comes into her bank account.

The Department does not dispute that the petitioner suffers from some form of mental or emotional disability. However, the petitioner admits she has no evidence other than their own allegation that her ability to manage her finances is actually impaired. Furthermore, even if it could be found that she was so impaired, she has not made any argument or allegation that the designation of "another adult" to receive and distribute her Food Stamps, as contemplated by the above regulation, would not fully address and accommodate her concerns about her ability to handle her Food Stamps herself.

ORDER

In the absence of any evidence to support the petitioner's actual need for the accommodation she seeks, it must be concluded that the Department's decision in this matter is in accord with the pertinent regulations, and must, therefore, be affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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